

Law Offices of  
THOMAS N. LIPPE, APC

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San Francisco, California 94107

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November 26, 2008

**ATTORNEY GENERAL COPY: CONTAINS OFFICIAL  
INFORMATION PER EVIDENCE CODE, § 1040**

**NOTICE OF VIOLATION OF  
CALIFORNIA HEALTH & SAFETY CODE, § 25249.5 ET SEQ.**

Dear California Attorney General:

The Law Offices of Thomas N. Lippe, APC ("Attorney") represents As You Sow ("AYS"), a non-profit foundation organized under California's Non-Profit Public Benefit Corporation Law. AYS is dedicated to, among other causes, the protection of the environment, the promotion of human health, the improvement of worker and consumer safety, and environmental education.

Attorney and AYS have documented violations of California's Safe Drinking Water & Toxic Enforcement Act of 1986 ("Proposition 65"), codified at Health & Safety Code, section 25249.5 et seq. This letter serves to provide Attorney's and AYS's notification of these violations to the public enforcement agencies and to the violator. Pursuant to section 25249.7, subsection (d), of the statute, Attorney intends to bring an enforcement action on behalf of AYS sixty (60) days after effective service of this notice unless the public enforcement agencies have commenced and are diligently prosecuting an action to rectify these violations.

A summary of the statute and its implementing regulations, which was prepared by the lead agency designated under the statute, is enclosed with the copy of this notice served upon the violator. The specific details of the violations that are the subject of this notice are provided below.

**Alleged violators.** The names of the violators covered by this notice are: Petco Animal Supplies, Inc. / Petco Animal Supplies Stores, Inc.; Pet Food Express, Ltd.; Petstages, Inc.; Vo-Toys Incorporated; CoopSport International LP; and Multipet International, Inc.

**Chemicals.** These violations involve exposures to lead and lead compounds from the products listed below. On February 27, 1987, the State of California officially listed lead as a chemical known to cause reproductive toxicity. On October 1, 1992, the State of California officially listed lead and lead compounds as chemicals known to cause cancer.

These violations also involve exposures to Di(2-ethylhexyl) phthalate (DEHP) from the products listed below. On October 24, 2003, the State of California officially listed DEHP as a chemical known to cause reproductive toxicity. On January 1, 1988, the State of California officially listed DEHP as a chemical known to cause cancer.

These violations also involve exposures to Di-*n*-butyl phthalate (DBP) from the products listed below. On December 2, 2005, the State of California officially listed DBP as a chemical known to cause reproductive toxicity.

**Consumer products.** The products that are the subject of this notice are dog and cat toys that are imported, exported, manufactured, packaged, distributed, marketed, and/or sold by Petco Animal Supplies, Inc. / Petco Animal Supplies Stores, Inc.; Pet Food Express, Ltd.; Petstages, Inc.; Vo-Toys Incorporated; CoopSport International LP; and Multipet International, Inc.

Product	Retailer	Manufacturer / Distributer	Chemical
"Twin Pull" dog toy (UPC 871864001638)	Petco Animal Supplies, Inc.	Petstages, Inc.	DEHP
"Fetcher" football toy (UPC 603152203147)	Petco Animal Supplies, Inc.	CoopSport International LP	DEHP, lead
"Purrr-Fection" cat toy (UPC 784369200416)	Pet Food Express, Ltd.	Multipet International, Inc.	DBP
"Glo Toy" ball for pets (UPC 075726495645)	Pet Food Express, Ltd.	Vo-Toys Incorporated	DEHP

**Route of exposure.** Use of the products identified in this notice results in human exposures to DEHP, DBP, and lead. The routes of exposure include but are not limited to direct ingestion if consumers, including children, put the product directly into their mouths; ingestion via hand to mouth contact after consumers, including children, touch or handle the product; ingestion via hand to mouth contact or pet saliva to mouth contact after consumers, including children, come into contact with a pet who has played with the product or put the product into their mouths; and dermal absorption directly through the skin and eyes when consumers, including children, touch or handle the product. No clear and reasonable warning is provided with these products regarding the carcinogenic or reproductive hazards of DEHP, DBP, or lead.

**Duration of violations.** Each of these ongoing violations has occurred on every day since at least November 26, 2007 as well as every day since the products were introduced in the California marketplace, and will continue every day until clear and reasonable warnings are provided to product purchasers and users or until these known toxic chemicals are removed from the products.

Pursuant to Title 11, California Code of Regulations, section 3100 et seq., a certificate of merit is attached hereto.

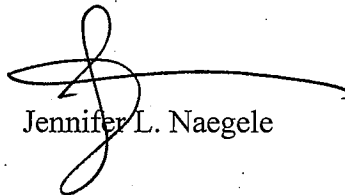
In keeping with its public interest mission and to expeditiously rectify these ongoing violations of California law, AYS is interested in seeking a constructive resolution of this matter without engaging in costly and protracted litigation. Please direct all communications regarding this notice to AYS' counsel in this matter:

Jennifer L. Naegele  
Law Offices of Thomas N. Lippe, APC  
329 Bryant Street, Suite 3D  
San Francisco, CA 94107  
Ph: (415) 777-5600; Fax: (415) 777-9809  
Email: jnaegele@sonic.net

Thank you for your attention to this matter.

Very truly yours,

LAW OFFICES OF THOMAS N. LIPPE, APC



Jennifer L. Naegele

Enclosures: Certificate of Merit (including supporting documentation for AG)  
Certificate of Service

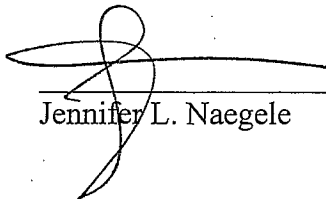
### CERTIFICATE OF MERIT

(Notice of Proposition 65 Violation on Petco Animal Supplies, Inc. / Petco Animal Supplies Stores, Inc.; Pet Food Express, Ltd.; Petstages, Inc.; Vo-Toys Incorporated; CoopSport International LP; and Multipet International, Inc.)

I, Jennifer L. Naegele, declare:

1. This Certificate of Merit accompanies the attached sixty-day notice in which it is alleged the party in the notice has violated Health and Safety Code, section 25249.6 by failing to provide clear and reasonable warnings.
2. I am an attorney for the noticing party.
3. I have consulted with one or more persons with relevant and appropriate experience or expertise who has reviewed facts, studies, or other data regarding the exposure to the listed chemicals that are the subject of the action.
4. Based on the information obtained through those consultations, and on all other information in my possession, I believe there is a reasonable and meritorious case for the private action. I understand that "reasonable and meritorious case for the private action" means that the information provides a credible basis that all elements of the plaintiff's case can be established and that the information did not prove that the alleged violator will be able to establish any of the affirmative defenses set forth in the statute.
5. The copy of this Certificate of Merit served on the Attorney General attaches to it factual information sufficient to establish the basis for this certificate, including the information identified in Health and Safety Code, section 25249.7(h)(2), i.e., (1) the identity of the persons consulted with and relied on by the certifier, and (2) the facts, studies, or other data reviewed by those persons.

Dated: 11/26/08

  
\_\_\_\_\_  
Jennifer L. Naegele

Enclosures (for Attorney General copy only)

## CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury under the laws of the State of California that the following is true and correct:

I am a citizen of the United States, over the age of 18 years, and not a party to the within action; my business address is 329 Bryant Street, Suite 3D, San Francisco, California 94107.

On November 26, 2008, I served the following documents:

- Notice of Violation of California Health and Safety Code, section 25249.5 et seq.
- Certificate of Merit
- "The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65): A Summary"

on the following parties by placing a true and correct copy thereof in a sealed envelope, addressed to the parties listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

James Myers, CEO  
Petco Animal Supplies, Inc.  
Petco Animal Supplies Stores, Inc.  
9125 Rehco Rd.  
San Diego, CA 92121

Michael Levy, President  
Pet Food Express, Ltd.  
2131 Williams St.  
San Leandro, CA 94577

Torjus Lundevall, President  
Petstages, Inc.  
333 Skokie Blvd. Suite 104  
Northbrook, IL 60062

Arthur Hirschberg, President  
Vo-Toys Incorporated  
400 S. 5th St.  
Harrison, NJ 07029

Peter Cooper and Scott Cooper, Partners  
CoopSport International LP  
1335 Park Center Dr. Suite B  
Vista, CA 92081

Mark Hirschberg, President  
Multipet International, Inc.  
265 W. Commercial Avenue  
Moonachie, NJ 07074

On November 26, 2008, I served the following documents:

- Notice of Violation of California Health and Safety Code, section 25249.5 et seq.
- Certificate of Merit, including Supporting Documentation Required by Title 11, California Code of Regulations, section 3102

on the following party by placing a true and correct copy thereof in a sealed envelope, addressed to the party listed below, and depositing it at a United States Postal Service Office for delivery by Certified Mail:

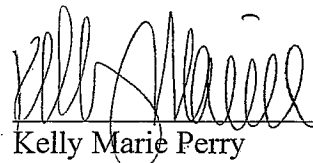
Attn: Ed Weil, Deputy Attorney General  
California Department of Justice  
1515 Clay Street, Suite 2000  
Oakland, CA 94612

On November 26, 2008, I served the following document(s):

- Notice of Violation of California Health and Safety Code, section 25249.5 et seq.
- Certificate of Merit

on each of the parties on the service list attached hereto by placing a true and correct copy thereof in a sealed envelope, addressed to each of the parties on the service list attached hereto, and depositing it at United States Postal Service mail box for delivery by First Class Mail.

Executed on November 26, 2008, at San Francisco, California.



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Kelly Marie Perry

PUBLIC ENFORCEMENT AGENCY SERVICE LIST

ALAMEDA COUNTY DISTRICT ATTORNEY 1225 FALLON ST RM 900 OAKLAND CA 94612	ALPINE COUNTY DISTRICT ATTORNEY PO BOX 248 MARKLEEVILLE CA 96120	AMADOR COUNTY DISTRICT ATTORNEY 708 COURT ST STE 202 JACKSON CA 95642
BUTTE COUNTY DISTRICT ATTORNEY 25 COUNTY CTR DR OROVILLE CA 95965	CALAVERAS COUNTY DISTRICT ATTORNEY 891 MTN RANCH RD SAN ANDREAS CA 95249	COLUSA COUNTY DISTRICT ATTORNEY 547 MARKET ST STE 102 COLUSA CA 95932
CONTRA COSTA COUNTY DISTRICT ATTORNEY 725 COURT ST 4 <sup>TH</sup> FLR MARTINEZ CA 94553	DEL NORTE COUNTY DISTRICT ATTORNEY 450 H ST STE 171 CRESCENT CITY CA 95531	EL DORADO COUNTY DISTRICT ATTORNEY 515 MAIN ST PLACERVILLE CA 95667
FRESNO COUNTY DISTRICT ATTORNEY 2220 TULARE ST STE 1000 FRESNO CA 93721	GLENN COUNTY DISTRICT ATTORNEY PO BOX 430 WILLOWS CA 95988	HUMBOLDT COUNTY DISTRICT ATTORNEY 825 FIFTH ST EUREKA CA 95501
IMPERIAL COUNTY DISTRICT ATTORNEY 940 W MAIN ST EL CENTRO CA 92243	INYO COUNTY DISTRICT ATTORNEY PO BOX D INDEPENDENCE CA 93526	KERN COUNTY DISTRICT ATTORNEY 1215 TRUXTUN AVE BAKERSFIELD CA 93301
KINGS COUNTY DISTRICT ATTORNEY 1400 W LACEY BLVD HANFORD CA 93230	LAKE COUNTY DISTRICT ATTORNEY 255 N FORBES ST LAKEPORT CA 95453	LASSEN COUNTY DISTRICT ATTORNEY 220 S LASSEN ST STE 8 SUSANVILLE CA 96130
LA COUNTY DISTRICT ATTORNEY 210 W TEMPLE ST STE 18000 LOS ANGELES CA 90012-3210	MADERA COUNTY DISTRICT ATTORNEY 209 W YOSEMITE AVE MADERA CA 93637	MARIN COUNTY DISTRICT ATTORNEY 3501 CIVIC CTR DR RM 130 SAN RAFAEL CA 94903
MARIPOSA COUNTY DISTRICT ATTORNEY PO BOX 730 MARIPOSA CA 95338	MENDOCINO COUNTY DISTRICT ATTORNEY PO BOX 1000 UKIAH CA 95482	MERCED COUNTY DISTRICT ATTORNEY 2222 M ST MERCED CA 95340
MODOC COUNTY DISTRICT ATTORNEY 204 S COURT ST RM 202 ALTURAS CA 96101-4020	MONO COUNTY DISTRICT ATTORNEY PO BOX 617 BRIDGEPORT CA 93517	MONTEREY COUNTY DISTRICT ATTORNEY PO BOX 1131 SALINAS CA 93902
NAPA COUNTY DISTRICT ATTORNEY 931 PARKWAY MALL NAPA CA 94559	NEVADA COUNTY DISTRICT ATTORNEY 201 CHURCH ST STE 8 NEVADA CITY CA 95959	ORANGE COUNTY DISTRICT ATTORNEY 401 CIVIC CTR DR WEST SANTA ANA CA 92701
PLACER COUNTY DISTRICT ATTORNEY 11562 B AVE AUBURN CA 95603	PLUMAS COUNTY DISTRICT ATTORNEY 520 MAIN ST RM 404 QUINCY CA 95971	RIVERSIDE COUNTY DISTRICT ATTORNEY 4075 MAIN ST RIVERSIDE CA 92501

PUBLIC ENFORCEMENT AGENCY SERVICE LIST

SACRAMENTO COUNTY DISTRICT ATTORNEY 901 G ST SACRAMENTO CA 95814	SAN BENITO COUNTY DISTRICT ATTORNEY 419 FOURTH ST, FL 2 HOLLISTER CA 95023	SAN BERNARDINO COUNTY DISTRICT ATTORNEY 316 N MTN VIEW AVE SAN BERNARDINO CA 92415-0004
SAN DIEGO COUNTY DISTRICT ATTORNEY 330 W BROADWAY SAN DIEGO CA 92101	SAN FRANCISCO COUNTY DISTRICT ATTORNEY 850 BRYANT ST RM 325 SAN FRANCISCO CA 94103	SAN JOAQUIN COUNTY DISTRICT ATTORNEY PO BOX 990 STOCKTON CA 95201-0990
SAN LUIS OBISPO COUNTY DISTRICT ATTORNEY CITY GOVERNMENT CTR, 4TH FLR SAN LUIS OBISPO CA 93408	SAN MATEO COUNTY DISTRICT ATTORNEY 400 COUNTY CTR FL 3 REDWOOD CITY CA 94063	SANTA BARBARA COUNTY DISTRICT ATTORNEY 1112 SANTA BARBARA ST SANTA BARBARA CA 93101
SANTA CLARA COUNTY DISTRICT ATTORNEY 70 W HEDDING ST WEST WING SAN JOSE CA 95110	SANTA CRUZ COUNTY DISTRICT ATTORNEY 701 OCEAN ST RM 200 SANTA CRUZ CA 95060	SHASTA COUNTY DISTRICT ATTORNEY 1525 COURT ST FL 3 REDDING CA 96001
SIERRA COUNTY DISTRICT ATTORNEY PO BOX 457 DOWNIEVILLE CA 95936	SISKIYOU COUNTY DISTRICT ATTORNEY PO BOX 986 YREKA CA 96097	SOLANO COUNTY DISTRICT ATTORNEY 675 TEXAS ST STE 4500 FAIRFIELD CA 94533
SONOMA COUNTY DISTRICT ATTORNEY 600 ADMINISTRATION DR RM 212-J SANTA ROSA CA 95403	STANISLAUS COUNTY DISTRICT ATTORNEY PO BOX 442 MODESTO CA 95353	SUTTER COUNTY DISTRICT ATTORNEY 446 SECOND ST YUBA CITY CA 95991
TEHAMA COUNTY DISTRICT ATTORNEY PO BOX 519 RED BLUFF CA 96080	TRINITY COUNTY DISTRICT ATTORNEY PO BOX 310 WEAVERVILLE CA 96093	TULARE COUNTY DISTRICT ATTORNEY 221 S MOONEY BLVD RM 224 VISALIA CA 93291
TUOLUMNE COUNTY DISTRICT ATTORNEY 423 N WASHINGTON ST SONORA CA 95370	VENTURA COUNTY DISTRICT ATTORNEY 800 S VICTORIA AVE VENTURA CA 93009	YOLO COUNTY DISTRICT ATTORNEY 301 SECOND ST WOODLAND CA 95695
YUBA COUNTY DISTRICT ATTORNEY 215 FIFTH ST MARYSVILLE CA 95901	LOS ANGELES CITY ATTORNEY'S OFFICE 800 CITY HALL EAST 200 N MAIN ST LOS ANGELES CA 90012	SAN DIEGO CITY ATTORNEY'S OFFICE CIVIC CENTER PLAZA 1200 THIRD AVE STE 1620 SAN DIEGO CA 92101
SAN JOSE CITY ATTORNEY'S OFFICE 200 E SANTA CLARA ST FL 6 SAN JOSE CA 95113	SAN FRANCISCO CITY ATTORNEY'S OFFICE CITY HALL RM 234 SAN FRANCISCO, CA 94102	